

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5920-01
Bill No.: SB 889
Subject: Natural Resources Department; Parks and Recreations; State Treasurer
Type: Original
Date: April 18, 2012

Bill Summary: This proposal changes the laws regarding the Department of Natural Resources.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Safe Drinking Water	\$0 to \$3,833,333	\$0 to \$4,600,000	\$0 to \$4,600,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to \$3,833,333	\$0 to \$4,600,000	\$0 to \$4,600,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Drinking Water State Revolving	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000
Total Estimated Net Effect on <u>All</u> Federal Funds	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 59.319 - 60.620 - Land Survey Program

Officials at the **Department of Natural Resources (DNR)** assumes this proposal will require no more than ten percent of all moneys collected under this subsection to pay for state and department administrative cost allocation. All income, interest, and moneys earned from such investments shall be deposited into the Missouri Land Survey Fund.

DNR assumes this would result in an estimated cost allocation reduction of \$207,911 in FY13. The state's central services, department administrative activities, and information technology activities such as the land survey index would be reduced. Some of these services may be direct billed, or other replacement funding sources such as general revenue would have to be requested.

Oversight assumes DNR would absorb the cost allocation reduction of \$207,911 in FY13 or direct bill these costs.

Section 59.319:

DNR state this section would create the Missouri Land Survey Fund in which to deposit the existing \$1 fee to be utilized for the purposes of sections 60.510 to 60.620 and section 60.670. The state treasurer would be custodian of the fund and would approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo.

Section 60.540:

DNR assumes this section would give DNR the authority to purchase property for the establishment of an office for the Land Survey Program. If additional office(s) are established by the program, this could lead to increased administrative costs and increase maintenance and capital improvement costs.

Section 60.570:

DNR state this section would allow the land survey program to establish regional offices in the metropolitan areas of the state for the storage and distribution of local survey record information. If additional office(s) are established by the program, this could lead to increased administrative costs and increase maintenance and capital improvement costs.

ASSUMPTION (Continued)

DNR assumes an unknown fiscal impact for this section due to variables associated with how many offices may be established and associated needs for each office. If additional office(s) are established by the program this could lead to increased administrative costs and increase maintenance and capital improvement costs.

Section 60.620:

DNR states this section would establish a new Land Survey Commission to replace the Land Survey Advisory Committee and would increase membership from 5 to 7 members.

Land Survey Program as a Whole:

DNR assumes an unknown overall fiscal impact from the Land Survey Program due to variables associated with how many offices may be established and associated needs for each office. If additional office(s) are established by the program this could lead to increased administrative costs and increase maintenance and capital improvement costs.

Oversight assumes any administrative costs and costs for the reimbursement of new commission members could be absorbed through the existing land survey user fees and existing appropriation.

Oversight assumes this proposal states the Land Survey Program may establish and maintain regional offices in metropolitan areas for the storage and distribution of local survey record information.

Oversight assumes this program already exists and DNR has regional offices for storage and distribution of local survey record information throughout the state at its current locations. If DNR seeks to establish separate regional offices for the Land Survey Program then additional funding for the administrative costs and office space may be requested through the normal appropriation process at that time.

Section 260.255 - Newspaper Publishers

Officials at the **Department of Natural Resources (DNR)** assumes this proposal has the potential to positively impact small publishing businesses that publish a newspaper with a daily distribution of 15,000 or more on the first day published.

ASSUMPTION (Continued)

DNR assumes the economic impact of the proposed legislation would be positive as publishers would no longer be spending time to report information on recycled content newsprint used by the publication and the cost of time spent completing any associated waiver requests.

DNR state over the past 3 years, DNR has seen a steady decline in the print publications within the state required to report recycled content as evidenced by the number of certified letters mailed.

DNR state the department received 102 letters in CY 2008, 88 in CY 2009, 69 in CY 2010 and 67 in CY 2011 from newspaper publishing companies.

DNR state from the responses received thus far for CY 2011, the Department is aware several more newspaper publications will no longer meet the requirements for submitting information.

DNR assumes the proposed repeal of 260.255 RSMo will allow a minimal amount of one staff person's time to be redirected towards other environmental tasks within the Solid Waste Management Program (SWMP). The SWMP would see a minimal reduction in expenses related to the cost associated with certified mailings from newspaper publications.

Oversight assumes there is no fiscal impact from this section on state or local government funds.

Section 260.373 - Hazardous Waste

Officials at the **Department of Natural Resources (DNR)** assume this proposed new section would limit the authority of the Commission to promulgate rules to implement the Hazardous Waste Management Law found in sections 260.350 to 260.434 RSMo. Other provisions of law notwithstanding, the Commission would only have authority to establish standards that are required under the federal Resource Conservation and Recovery Act (RCRA).

DNR state the federal act establishes a regulatory framework for hazardous waste generators, hazardous waste transporters, and permitted hazardous waste facilities. Section 260.373.1 of the proposal states that standards established by the commission shall not be any stricter than those required under RCRA.

DNR state once EPA has adopted rules at the federal level, states then adopt rules at the state level that are functionally equivalent to the federal rules on the same topic. The basic test applied by EPA in determining whether states meet the requirement to be authorized is that state programs may not be less stringent than the federal laws and regulations adopted under RCRA. States can be more stringent or broader in scope than EPA; they just cannot be less stringent.

ASSUMPTION (Continued)

DNR assumes Missouri, like many other states, implements the requirement of authorized states to be no less stringent by incorporating the federal regulations by reference. Missouri then modifies the federal regulations, and the state modifications are what constitute the majority of the hazardous waste rules found in Title 10, Division 25 of the Code of State Regulations. Because all that is required of authorized states is that they be no less stringent, any of the Missouri regulations could be determined to be prohibited by this bill as everything in the state rules either provides additional clarification, adds to, excludes from, or otherwise modifies the federal regulations that are incorporated by reference. None of this additional material is "required", so consistent with section 260.373.1, which limits the commission's authority to standards that are required under RCRA, the department anticipates that many of our existing state rules on hazardous waste would have to be repealed.

DNR assumes many of these rules have been developed to address situations that are either: 1) unique to Missouri; 2) that are otherwise unaddressed or incompletely addressed in the federal regulations; or 3) that are in response to statutory requirements developed by the legislature and signed into law. The state regulations that are stricter than federal were promulgated by the Hazardous Waste Management Commission to be responsive to the needs and concerns of citizens and to help prevent contamination of land, surface water, groundwater and air.

DNR assumes in reviewing the Missouri program as a whole, the EPA considers the state requirements that are more stringent when determining that the program as a whole is no less stringent, even though there are certain state regulations that are actually less stringent than what is required under federal regulations. It is likely that EPA would reconsider these provisions if Missouri's ability to offset the less stringent provisions of its program with additional state-specific requirements were eliminated.

Oversight assumes all rules would be set to maintain compliance with RCRA.

Oversight assumes any fees established in statute for the Hazardous Waste Program or Solid Waste Management Program as related to fees will remain the same.

Oversight assumes fees established by rule would be set to match the required costs of compliance with RCRA resulting in no additional fiscal impact from this proposed section on state or local funds.

Officials at the **Office of Secretary of State (SOS)** assumes this proposed section would likely require an additional 68 pages in the Missouri Register. This calculation of 68 pages assumes that half of the rules under the Hazardous Waste Commission will require new rulemakings. The estimated cost of a page in the Missouri Register is \$23.00.

ASSUMPTION (Continued)

SOS assumes under the assumption stated above, these new rulemakings will have to be published in the Code of State Regulations. For any given rule, roughly two-thirds as many pages are published in the Code of State Regulations as in the Missouri Register because cost statements, fiscal notes, and the like are not repeated in the Code. Therefore, it is estimated that this bill will result in an additional 102 pages in the Code of State Regulations. The estimated cost of a page in the Code of State Regulations is \$27.00.

SOS assumes the actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules amended, rescinded, or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposed section. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Sections 414.530 - 414.570 - Missouri Propane Education and Research Council

Officials at the **Department of Natural Resources (DNR)** assumes the proposed section would remove the appointment authority from the Missouri Energy Center Director and transfer the appointment authority directly to the Missouri Propane and Research Council, following a public nomination period.

DNR assumes this proposal would remove the spending plan review authority from the director and transfer the spending plan approval authority to the council following a public comment period.

DNR assumes this proposal would remove the reporting requirement for council meeting minutes, books, and records; and removes the authority of the director to request any other information from the council and removes the responsibilities of the council to provide to the director notices of meetings, reports of activities of the council as well as reports on compliance, violations and complaints regarding the Missouri Propane Education and Research Council.

DNR assumes this proposal would remove cost reimbursement associated with the appointment process in accordance with the removal of the appointment authority.

ASSUMPTION (Continued)

DNR assumes the council annually sets assessments to sufficiently cover the costs of the plans and programs developed by the council and approved by the director. This proposal would remove the approval authority of the director and transfers this authority to the council, following a public comment.

DNR assumes the director may establish an alternate means to collect the assessments if another means is found to be more efficient and effective. The director is authorized to establish a late payment charge and rate of interest to be imposed on any person who fails to remit to the council any amount due. This proposal would repeal these authorities from the director and transfers these authorities to the council.

DNR assumes no fiscal impact from this proposed section.

Section 640.100 - Safe Drinking Water

Officials at the **Department of Natural Resources (DNR)** assume this section would extend the drinking water primacy fee in Section 640.100, RSMo until September 1, 2017. Currently this fee is set to expire September 1, 2012.

DNR states, this proposal would continue funding to implement, administer, and enforce public drinking water requirements for safe drinking water provided to the public. Public water systems serve more than 90% of Missouri citizens.

DNR states, this proposal would continue support for monitoring, regulatory oversight, and contaminant mitigation as necessary to provide safe drinking water.

DNR states, primacy fees provide 43% of the support needed for the department's public drinking water effort, allowing the state to maintain its delegated authority, or primacy, under the federal Safe Drinking Water Act.

DNR states, primacy fees provide the match for the 10 percent set-aside of the Drinking Water State Revolving Fund capitalization grants for public water system supervision. In order to obtain these federal funds of approximately \$1.0 million per year, Missouri is required to provide at least an equal amount of state funds, at least half of which must be in addition to the amount the state expended in Federal Fiscal Year 93. Without renewal of these fees the department will not be able to provide the required state matching funds.

ASSUMPTION (Continued)

DNR states, with passage of this proposal, the state would be able to maintain its primacy delegation authority and qualify for federal state revolving fund capitalization grants that provide low-cost loans to public water systems and funding for source water protection and other specified activities under the federal Safe Drinking Water Act.

DNR states, the department does not anticipate a fiscal impact as a result of this proposal if the sunset date is extended. However, if the sunset provision is not amended as proposed, the estimated total loss of revenue to support safe drinking water in Missouri is approximately \$4.6 million per year to the Safe Drinking Water Fund.

Oversight assumes the proposed legislation does not change DNR's authority but would continue to fund an existing program. Current law contains an expiration date of September 1, 2012 for the collection of the drinking water primacy fee. This proposal would extend the expiration date of the safe drinking water primacy fees by 5 years to September 1, 2017.

Oversight assumes under federal law, only states that maintain their primacy delegation qualify for federal capitalization grants for the Drinking Water State Revolving Fund (DWSRF). The extension of the primacy fee will continue to draw down federal matching grants of \$12,000,000 to \$18,000,000 per fiscal year to the DWSRF.

Section 644.051 - 644.145 - Water Pollution Control

DNR state this proposed section provides the ability for the department to implement electronic permitting and provides permittees a minimum timeframe to apply for the renewal of general permits. For general permit applications that do not require a public participation process, the department shall issue or deny the permits within sixty days of the department's receipt of an application, or upon issuance of the master general permit, whichever is later.

DNR assumes this proposed section amends what must be included for consideration when assessing community investments relating to affordability determinations for municipal water systems for permits and enforcement actions.

DNR assumes no fiscal impact from this proposed section.

ASSUMPTION (Continued)

Bill as a Whole

Officials at the **Office of Attorney General (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials at the **Department of Agriculture, Office of Administration, Department of Revenue, State Treasurer's Office, Missouri Public Service Commission, Office of Public Counsel, Department of Health and Senior Services, Department of Labor and Industrial Relations, Office of the State Auditor, Boone County, St. Charles County, and Harrison County Health Department** each assumes there is no fiscal impact from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
SAFE DRINKING WATER FUND			
<i>Section 640.100 - Safe Drinking Water</i>			
<u>Revenue - Primacy Fees</u>	<u>\$0 to</u> <u>\$3,833,333</u>	<u>\$0 to</u> <u>\$4,600,000</u>	<u>\$0 to</u> <u>\$4,600,000</u>
ESTIMATED NET EFFECT ON SAFE DRINKING WATER FUND	<u><u>\$0 to</u></u> <u><u>\$3,833,333</u></u>	<u><u>\$0 to</u></u> <u><u>\$4,600,000</u></u>	<u><u>\$0 to</u></u> <u><u>\$4,600,000</u></u>

<u>FISCAL IMPACT - Federal Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
DRINKING WATER STATE REVOLVING FUND			
<i>Section 640.100 - Safe Drinking Water</i>			
<u>Revenue - Federal Capitalization Grants</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>
ESTIMATED NET EFFECT ON DRINKING WATER STATE REVOLVING FUND	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

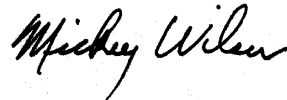
Section 640.100 - Safe Drinking Water

This proposal extends, from September 1, 2012, to September 1, 2017, the authorization for the Department of Natural Resources to impose fees for the implementation, administration, and enforcement of the federal Safe Drinking Water Act.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Office of Secretary of State
Office of the Attorney General
Department of Agriculture
Office of Administration
Department of Revenue
State Treasurer's Office
Missouri Public Service Commission
Office of Public Counsel
Department of Health and Senior Services
Department of Labor and Industrial Relations
Office of the State Auditor
Boone County
St. Charles County
Harrison County Health Department

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 18, 2012